



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------------|------------------------|
| 10/757,564 | 01/15/2004 | Robert Walther | 1406-23/AM | 4536 |
| 38735 7590 02/17/2011 DIMOCK STRATTON LLP 20 QUEEN STREET WEST, 32nd FLOOR, BOX 102 TORONTO, ON M5H 3R3 CANADA | | | EXAMINER SALONE, BAYAN | |
| | | | ART UNIT 3726 | PAPER NUMBER |
| | | | MAIL DATE 02/17/2011 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/757,564

Applicant(s)

WALTHER ET AL.

Examiner

BAYAN SALONE

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05/30/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 03/24/2004
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: the specification recites the word "dye" which appears to be a misspelling of the word "die" throughout the entirety of the specification.

Appropriate correction is required.

Claim Objections

Claims 1-6 are objected to because of the following informalities: Claims 1 and 4 recite the word "dye" which appears to be a misspelling of the word "die".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Applicant's Admitted Prior Art (APA).

3. Regarding Claims 1 and 6, APA (Background of invention; Par. 0007-0008, Pages 2-3; Specification of the instant application) discloses a method of manufacturing

a fuel filler tube in a hydro forming dye having a cavity of a final configuration of the fuel filler tube, comprising the steps of: a. cutting a blank to a desired length (step 1); b. forming an intermediate pre-form having enlarged and constricted portions corresponding to enlarged and constricted portions of the fuel filler tube (step 4); and d. disposing the intermediate pre-form in the hydro forming dye and injecting the hydro forming fluid under pressure into the intermediate pre-form, to expand the intermediate pre-form to the final configuration (step 8). Note: the examiner takes the position that performing step c. (bending the intermediate pre-form if required to fit into the hydro forming dye) is optional (i.e. "if required to fit"). See MPEP 2173.05 (h).

4. Claims 1, 2, 3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Giezen (WO01/74507; herein referenced as US Patent No. 6,842,957).

5. Regarding Claims 1 and 6, Van Giezen discloses a method of manufacturing a tubular member (10, 20) (i.e. capable of use as a fuel filler tube) in a hydro forming dye having a cavity of a final configuration of the fuel filler tube, comprising the steps of: a. cutting a blank to a desired length (Col. 2, Lines 49-57); b. forming an intermediate pre-form having enlarged and constricted portions corresponding to enlarged and constricted portions of the fuel filler tube (Col. 2, Line 58-Col. 3, Line 12, figs. 1-12); c. bending the intermediate pre-form if required to fit into the hydro forming dye (Col. 1, Lines 19-23); and d. disposing the intermediate pre-form in the hydro forming dye and injecting the hydro forming fluid under pressure into the intermediate pre-form, to expand the intermediate pre-form to the final configuration (Col. 1, Lines 14-35).

6. Regarding Claim 2, Van Giezen discloses the method of claim 1, in which step a. involves the sub-step of cutting a flat blank with wide and narrow portions corresponding to enlarged and constricted portions of the intermediate pre-form and step b. comprises the sub-step of rolling the flat blank into a tube (Col. 2, Lines 49-60, Figs. 1, 11 and 12).
7. Regarding Claim 3, Van Giezen discloses the method of claim 2 wherein the blank is formed from a plurality of different materials (Col. 1, Lines 41-45).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art (APA) as applied to claim 1 above, in view of Van Giezen (WO01/74507; herein with referenced as US Patent No. 6,842,957).
10. Regarding Claim 2, the aforementioned rejection as applied to claim 1 remains as previously applied. APA does not explicitly disclose wherein step a. involves the sub-step of cutting a flat blank with wide and narrow portions corresponding to enlarged and constricted portions of the intermediate pre-form and step b. comprises the sub-step of rolling the flat blank into a tube.

Van Giezen discloses a method of manufacturing a tubular component wherein the process involves the sub-step of cutting a flat blank with wide and narrow portions corresponding to enlarged and constricted portions of the intermediate pre-form and the sub-step of rolling the flat blank into a tube (Col. 2, Lines 49-60, Figs. 1, 11 and 12). It would have been obvious to one of ordinary skill in the art at the time of invention to utilize the sub steps of Van Giezen with the method disclosed by APA to produce the fuel filler tube, for the benefit of providing a better method for producing a tubular blank having a complex shape.

11. Regarding Claim 3, the aforementioned combination as applied to claim 2 remains as previously applied. APA does not explicitly disclose wherein the blank is formed from a plurality of different materials.

Van Giezen discloses wherein the blank is formed from a plurality of different materials (Col. 1, Lines 41-45). It would have been obvious to one of ordinary skill in the art at the time of invention to utilize a blank formed from a plurality of different materials as disclosed by Van Giezen with the method of APA, for the benefit of providing a fuel filler tube having improved strength in targeted areas of the tube.

12. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art (APA) as applied to claim 1 above, in view of Horton (US Patent No. 6,065,502).

13. Regarding Claims 4 and 5, the aforementioned rejection as applied to claim 1 remains as previously applied. APA does not explicitly disclose the sub-step of inserting

or retracting a pressurizing member in the hydro forming dye to control the length or wall thickness, or both, of the fuel filler tube.

Horton discloses a method of hydro forming an angled tubular part (70) wherein the hydro forming process comprises the sub-step of inserting or retracting a pressurizing nozzle (64) for injecting pressurized fluid (F) during hydro forming into the hydro forming dye (12), to control the length or wall thickness, or both, of the tubular component (70) and to provide a wrinkle free method of hydro forming the component (Abstract of the disclosure; Col. 3, Line 55-Col. 4, Line 41 and Col. 5, Lines 51-62, Figs. 1-6). It would have been obvious to one of ordinary skill in the art at the time of invention to utilize the nozzle member of Horton with the method of APA to inject the pressurized fluid into the hydro forming die for the benefit of providing a wrinkle free method of hydro forming the tubular component, while regulating the wall thickness of the tubular component.

14. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Giezen (WO01/74507; herein with referenced as US Patent No. 6,842,957) in view of Horton (US Patent No. 6,065,502).

15. Regarding Claims 4 and 5, the aforementioned rejection as applied to claim 1 remains as previously applied. Van Giezen does not explicitly disclose wherein step d. comprises the sub-step of inserting or retracting a pressurizing member in the hydro forming dye to control the length or wall thickness, or both, of the fuel filler tube.

Horton discloses a method of hydro forming an angled tubular part (70) wherein the hydro forming process comprises the sub-step of inserting or retracting a

pressurizing nozzle (64) for injecting pressurized fluid (F) during hydro forming into the hydro forming die (12), to control the length or wall thickness, or both, of the tubular component (70) (Col. 3, Line 55-Col. 4, Line 41 and Col. 5, Lines 51-62, Figs. 1-6). It would have been obvious to one of ordinary skill in the art at the time of invention to utilize the nozzle member of Horton with the method of Van Giezen to inject the pressurized fluid into the hydro forming die for the benefit of providing a wrinkle free method of hydro forming the tubular component, while regulating the wall thickness of the tubular component.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BAYAN SALONE whose telephone number is (571)270-7739. The examiner can normally be reached on M-Th, 7:30 AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on (571)-272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BAYAN SALONE/
Examiner, Art Unit 3726

/DAVID P. BRYANT/
Supervisory Patent Examiner, Art Unit 3726